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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,484	04/12/2004	Joseph M. Asher	069547.0157	3028
5073	7590	05/31/2006	EXAMINER	
BAKER BOTTS L.L.P.			COLBERT, ELLA	
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DALLAS, TX 75201-2980			3624	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/822,484	<b>Applicant(s)</b> ASHER ET AL.	
	<b>Examiner</b> Ella Colbert	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-47 are pending. Claims 1-9, 12-14, 27-34, 37, 38, 40, and 42-47 have been amended in this communication filed 03/02/06 entered as new or additional drawings and Response After Non-Final Action.
2. The Notice of Non-Compliant Amendment under 37 CFR 1.121 has been overcome by the amendment to the two sheets of drawings and is hereby withdrawn.
3. The Amended Specification has overcome the Objections to the Specification and is hereby withdrawn.
4. The 35 USC 112 second paragraph rejections are hereby withdrawn in view of Applicant's convincing arguments.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by (US 6,067,532) Gebb.

Claim 1. Gebb teaches, A computer-implemented method performed using a computer system for conducting an exchange of an activity entry between a buyer and a seller the computer system comprising one or more processing units and one or more memory units, the method comprising: determining a first set of entries in at one or more activities, each entry representing a chance that an event associated with the activity will occur (col. 2, lines 29-50 –(one activity –the consignment of tickets); using the computer system, executing a first initial distribution of the first set of entries (col. 2, lines 51-62); and using the computer system, conducting trading, of at least one of the entries, between at least one buyer and at least one seller (col. 3, lines 20-42). It would be considered inherent that each entry in any event would represent a chance that the event will occur. For example, if it is a boat race the race may not be run if the water is too rough even though people have bought tickets and bet on the race or a boat may not be able to complete the race due to mechanical problems and be eliminated.

Claim 2. Gebb teaches, The method of claim 1, wherein the step of conducting after-market trading comprises: receiving, from a first user, at least one buy request associated with at least one entry of the first set of entries (col. 5, lines 15-65); receiving, from a second user, at least one sell request associated with the at least one entry of the first set of entries (col. 6, lines 3-63); matching the at least one buy request with the at least one sell request (col. 8, line 3-29); and transferring the at least one entry of the first set of entries from the second user to the first user (col. 8, lines 30-67).

Claim 3. The method of claim 1, wherein the step of conducting trading comprises: receiving, from a first user, a buy order associated with at least one entry of the first set of entries (col. 6, line 64-col. 7, line 13); receiving, from a second user, a short sale order associated with the at least one entry of the first set of entries (col. 6, lines 40-63); matching the buy order with the at least one short sale order to create a short sale (col. 6, line 64-col. 7, line 13 and lines 42-52); settling, at a predetermined time, the short sale (col. 8, line 3-29).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,067,532) Gebb in view of (US 2002/0082969 A1) O'Keeffe et al, hereafter O'Keeffe.

Claim 4. Gebb failed to teach, The method of claim 1, wherein executing a first initial distribution comprises conducting a lottery for the first set of entries. O'Keeffe teaches, wherein executing a first initial distribution comprises conducting a lottery for the first set of entries (page 3, col. 2, paragraph [0034]-[0035]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the executing a first initial distribution comprise conducting a lottery for the first set of entries and to modify in Gebb because such a modification would allow Gebb to participate in a lottery distribution where prospective participants may be asked to

register over a web site by telephone and to pay the ticket lottery subscription fee in advance.

Claim 5. Gebb failed to teach, The method of claim 1, wherein executing a first initial distribution comprises conducting an auction for the first set of entries. O'Keeffe teaches, distributing comprises conducting an auction for the first set of entries (page 3, col. 2, paragraph [0032]-[0033]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the executing a first initial distribution comprise conducting an auction for the first set of entries and to modify in Gebb because such a modification would allow Gebb to have the first portion of tickets placed in an auction pool where the initial size of the auction pool is determined, at least in part, by the ticket price, the event venue, the size of the applicable market, and the anticipated demand.

Claim 6. Gebb teaches, The method of claim 1, further comprising. using the computer system, the step of executing a second initial distribution of a second set of entries for the first activity and using the computer system, the step of conducting trading of at least one of the second set of entries (col. 6, lines 40-63 –second set of redistribution entries).

Claim 7. Gebb teaches, The method of claim 6, wherein the trading of the entries of the first set of entries is discrete from the trading of the second set of entries of the second set of entries (col. 6, line 64-col. 7, line 13).

Claim 8. Gebb teaches, The method of claim 6, wherein the trading of the first set of entries is commingled with the trading of entries of the second set of entries (col. 7, lines 20-41).

Claim 9. Gebb teaches, The method of claim 1, further comprising: using the computer system. the step of executing a second initial distribution of a second set of entries for a second activity and using the computer system. the step of conducting trading of at least one of the second set of entries (col. 8, lines 12-43).

Claim 10. Gebb teaches, The method of claim 9, wherein the first activity is the same type of activity as the second activity (col. 8, lines 12-43).

Claim 11. The method of claim 9, wherein the first activity (col. 5, lines 25-65) is a different type of activity from the second activity (col. 8, lines 12-43).

Claim 12. this dependent claim is rejected for the similar rationale as given above for claim 7.

Claim 13. this dependent claim is rejected for the similar rationale as given above for claim 8.

Claim 14. Gebb failed to teach, The method of claim 1, wherein the trading of entries of the first set of entries comprises conducting an auction of at least one entry of the first set of entries. O'Keeffe teaches, wherein the trading of the first set of entries comprises conducting an auction of at least one entry of the first set of entries (page 9, col. 1, paragraph [0101]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the first set of entries comprise conducting an auction of at least one entry of the first set of entries and to modify in

Gebb because such a modification would allow Gebb to have a user to elect to view an auction site where the key elements of the auction are displayed with the current price for the entries is being offered and the time expiration of the current offer.

Claim 15. Gebb failed to teach, The method of claim 14, wherein conducting the auction comprises receiving from a first user a request to auction at least one entry held by the first user, and receiving from a second user a first bid request for the at least one entry. O'Keeffe teaches, conducting the auction comprises receiving from a first user a request to auction at least one entry held by the first user, and receiving from a second user a first bid request for the at least one entry (page 3, col. 2, [0032]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to conduct an auction comprising receiving from a first user a request to auction at least one entry held by the first user, and receiving from a second user a first bid request for the at least one entry and to modify in Gebb because such a modification would allow Gebb to have a system for restoring the proper value and selling price auction with a secondary distribution occurring after the auction distribution is completed.

Claim 16. Gebb failed to teach, The method of claim 15, further comprising receiving from a third user a second bid request higher than the first bid request and transferring the at least one entry to the third user. O'Keeffe teaches, receiving from a third user a second bid request higher than the first bid request and transferring the at least one entry to the third user (page 7, col. 1, paragraph [0072]-col. 2, line 9). It would have been obvious to one having ordinary skill in the art at the time the invention was



made to receive from a third user a second bid request higher than the first bid request and transferring the at least one entry to the third user and to modify in Gebb because such a modification would allow Gebb to award the entry to the highest bidder in the auction that out bid the first bid.

Claim 17. Gebb teaches, The method of claim 1, wherein the activity is a sports activity (col. 1, lines 31-38).

Claim 18. Gebb teaches, The method of claim 1, wherein the activity is an entertainment activity (col. 1, lines 12-17).

Claim 19. Gebb does not expressly teach, The method of claim 1, wherein the activity is a competition. However in col. 2, lines 36-50 Gebb does disclose an event in an arena and determining a price for a ticket which could be a competition.

Claim 20. Gebb teaches, The method of claim 1, wherein the activity is a financial market activity (col. 2, lines 11-27).

Claim 21. Gebb does not expressly teach, The method of claim 1, wherein the activity is a tournament. However, Gebb in col. 3, lines 20-42 does disclose sporting events which may include a tournament.

Claim 22. Gebb teaches, The method of claim 1, wherein the activity is a single game (col. 3, lines 20-34).

Claim 23. Gebb teaches, The method of claim 1, wherein the activity is a basketball tournament (col. 3, lines 34-42).

Claim 24. Gebb and O'Keeffe failed to teach, The method of claim 1, wherein the activity is a political election. It would have been obvious to one having ordinary skill

in the art at the time the invention was made that the activity is a political election and to modify in Gebb because such a modification would allow Gebb's system to support several different types of activities. It is well known by PHOSITA that a political election is considered an activity and something that can have tickets auctioned or a lottery for tickets to attend the political dinners, fundraisers, and the other political events surrounding the election.

Claim 25. Gebb teaches, The method of claim 1, further comprising: using the computer system. the step of accepting payment for the entry from the first user (col. 5, lines 25-45).

Claim 26. Gebb teaches, The method of claim 1, further comprising using the computer system. the step of accepting confirmation of payment for the entry by the first user (col. 5, lines 46-65).

Claim 27. Gebb teaches, The method of claim 1, wherein executing a first initial distribution comprises distributing all or a portion of the first set of entries in a single bundle to one or more users (col. 6, line 64-col. 7, line 12).

Claim 28. Gebb teaches, The method of claim 27, wherein the single bundle is distributed prior to conducting the trading of entries of the first set of entries (col. 8, lines 3-11).

Claim 29. Gebb teaches, The method of claim 27, wherein the single bundle is distributed after commencement of the trading of entries of the first set of entries (col. 8, lines 12-43).

Claim 30. Gebb teaches, The method of claim 1, wherein conducting the trading comprises receiving a short sell order from a first user and a buy order from a second user (col. 7, line 53-col. 8, line 29).

Claim 31. Gebb teaches, The method of claim 1, wherein the trading comprises conducting at least one transfer of at least one entry (col. 8, lines 30-43).

Claim 32. Gebb teaches, The method of claim 1, wherein the trading comprises conducting at least one sale of at least one entry (col. 8, lines 44-62).

Claim 33. Gebb teaches, The method of claim 1, wherein the trading comprises conducting at least one short sale (col. 7, line 53-col. 8, line 29 –interpreted as short sale).

Claim 34. Gebb failed to teach, The method of claim 1, wherein the trading comprises at least one auction. O'Keeffe teaches, the trading comprises at least one auction (page 3, col. 2, paragraph [0032]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the trading comprise at least one auction and to modify in Gebb because such a modification would allow Gebb to have the capability for a consumer to purchase a ticket at market value via an auction.

Claim 35. The method of claim 34, Gebb failed to teach, wherein the auction comprises an auction in which a payout of a certain minimum amount at a certain time is guaranteed to be made to the holder of a winning entry. O'Keeffe teaches, wherein the auction comprises an auction in which a payout of a certain minimum amount at a certain time is guaranteed to be made to the holder of a winning entry (page 4, col. 1,

paragraph [0040]-[0041]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the auction comprises an auction in which a payout of a certain minimum amount at a certain time is guaranteed to be made to the holder of a winning entry and to modify in Gebb because such a modification would allow Gebb to have a payout made to the highest bidder prior to the close of the auction.

Claim 36. this dependent claim is rejected for the similar rationale as given above for claim 35.

Claim 37. Gebb failed to teach, The method of claim 36, wherein the payout comprises money. O'keeffe teaches, wherein the payout comprises money (page 7, col. 2, paragraph [0078]-[0079]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the payout to comprise money and to modify in Gebb because such a modification would allow Gebb to have a range of payout possibilities for the tickets.

Claim 38. Gebb teaches, The method of claim 36, wherein the payout comprises a non-cash prize (col. 7, line 53-col. 8, line 11).

Claim 39. Gebb teaches, The method of claim 36, wherein the payout comprises at least a portion of fees paid for the first set of entries during the distributing step (col. 7, line 53- col. 8, line 43).

Claim 40. Gebb failed to teach, The method of claim 36, wherein the payout is at least partially based on an amount of revenues generated by the distributing step. O'Keeffe teaches, wherein the payout is at least partially based on an amount of

revenues generated by the distributing step (page 7, col. 2, paragraph [0079]-[0080]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the payout at least partially based on an amount of revenues generated by the distributing step and to modify in Gebb because such a modification would allow Gebb to have the capability to increase the base revenue but reduce the estimated revenue.

Claim 41. Gebb teaches, The method of claim 1, further comprising: using the computer system the step of receiving a commission or fee for the transfer of at least one entry (col. 7, line 53-col. 8, line 2).

Claim 42. Gebb teaches, The method of claim 1, wherein the trading begins as soon as at least one entry is distributed (col. 8, lines 12-22).

Claim 43. Gebb teaches, The method of claim 1, wherein the trading begins after all of the first set of entries is distributed (col. 8, lines 22-43).

Claim 44. Gebb teaches, The method of claim 1, wherein the trading begins after a predetermined number of entries are distributed (col. 8, lines 44-67).

Claim 45. Gebb teaches, The method of claim 1, wherein the trading is closed at a predetermined time (col. 8, lines 16-29).

Claim 46. Gebb teaches, The method of claim 1, wherein the trading is closed before the start of the activity (col. 7, lines 14-65).

Claim 47. Gebb teaches, The method of claim 1, wherein the trading is closed at the end of the activity (col. 9, lines 1-24).

***Response to Arguments***

9. Applicants' arguments filed 03/02/06 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: Gebb does not discuss "entries" and certainly does not consider "entries" in the manner which this term used in Applicants' claims and even if "entry" were used in the Gebb disclosure, it would mean "ticket" or "admission to an event" has been considered but is not persuasive. Response: Gebb does disclose tickets and is interpreted to disclose "entry"-sellers are entered into the system, they are allowed to consign tickets ...". Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Issue no. 2: Applicants' argue: Claim 1 has been amended to recite "each entry representing a chance that an event associated with the activity will occur ..." and "Applicants' respectfully submit that at least this limitation is neither disclosed nor suggested by the cited art ..." has been considered but is not persuasive. Response: Applicants' are respectfully requested to point out in the Specification where "each entry representing a chance that an event associated with the activity will occur ..." is disclosed. The Examiner does not find where the newly added limitation is disclosed in the Specification. It would be considered inherent that each entry in any event would represent a chance that the event will occur. For example, if it is a boat race the race may not be run if the water is too rough even though people have bought tickets and

bet on the race or a boat may not be able to complete the race due to mechanical problems and be eliminated.

Issue no. 3: Applicants' argue: In order to establish a prima facie case of obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art has been considered but is not persuasive. Response: As for motivation, Rationale may be in a reference or reasoned from common knowledge in the art, scientific principles, art-recognized equivalents, or legal precedent". The reason or motivation to modify the reference may often suggest what the inventor has done but for a different purpose or to solve a different problem. It is not necessary to achieve the same advantage or result discovered by Applicants'. *In re Linter*, 458 F.2d 1013. 173 USPQ 560 (CCPA 1972). See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992); *In re Nilssen*, 851 F.2d 1401, 1403, 7 USPQ2d 1500, 1502 (Fed. Cir. 1988) (references do not have to explicitly suggest combining teachings); and *Ex parte Levensgood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993) (reliance on logic and sound scientific reasoning). See MPEP 2144 entitled "Sources of Rationale Supporting a Rejection Under 35 U.S.C. 103: RATIONALE MAY BE IN A REFERENCE, OR REASONED FROM COMMON KNOWLEDGE IN THE ART, SCIENTIFIC PRINCIPLES, ART – RECOGNIZED EQUIVALENTS, OR LEGAL PRECEDENT."

Issue no. 4: Applicants' argue: Applicants respectfully submit that even if Gebb and O'Keeffe were properly combined (a point not admitted), then the combined references would still fail to disclose each and every element and limitation of the

rejected claims has been considered but is not persuasive. Response: It is interpreted that the references when combined disclose the elements of the claim limitations or the claim limitation is either inherent or obvious.

Issue no. 5: Applicants' argue: Applicants' respectfully submit that such statements do nothing more than present a possible result of combining the references without providing any motivation or suggestion to combine the references in the first instance and this constitutes hindsight reasoning of the type repeatedly rejected by the PTO Board and the Court of Appeals of the Federal Circuit has been considered but is not persuasive. Response: In response to applicants' argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Issue no. 6: Applicants' argue: The referenced section of Gebb simply does not discuss trading of two sets of entries and second the referenced section concerns the provision of paperless event tickets and not the distribution and trading of two discrete sets of entries and the referenced section only discusses the exchange of tickets that have already been distributed, and not a second trading of a second distribution of entries has been considered but is not persuasive. Response: Gebb does disclose



more than one ticket. Gebb discloses a listing of consigned tickets for any desired event. Col. 8, lines 47-49 discloses more than one ticket which could represent sets of entries.

Issue no. 7: Applicants' argue: Applicants' request clarification to the reference POSITA has been considered. Response: The word was misspelled in error. The proper spelling is PHOSITA meaning "one of ordinary skill in the art".

Issue no. 8: Applicants' argue: the cited references do not disclose "payouts" because the referenced sections of O'Keeffe are merely discussing a lottery distribution of event tickets and there is no discussion of entries, for which a winning entry may be determined (as previously discussed) and which would thus result in a payout to the winner has been considered but is not persuasive. Response: In any auction there is at least one winner and in any lottery there is at least one winner who receives the "payout" (cash prize).

Conclusion: The Applicant is respectfully requested to point out to the Examiner in the independent claim(s) the inventive concept of the invention.

The Examiner is entitled to give limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

*During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).<*

### ***Conclusion***

10. Applicants' amendments necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

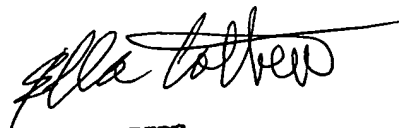
### ***Inquiries***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Tuesday-Thursday, 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 29, 2006



ELLA COLBERT  
PRIMARY EXAMINER